

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS**

UNITED STATES OF AMERICA

VS.

CASE NO. 4:07CR00049-03 JMM

MILTON JARMON

ORDER

Defendant Milton Jarmon has filed a Motion to Dismiss based upon the government's response to his discovery requests. The government has responded. For the reasons stated below, the motion is denied (#145).

Defendant is charged with eleven other defendants with drug offenses including a conspiracy charges. In the course of his defense, defendant made a discovery request to the government specifically asking for all *Brady* information. In response, the government sent defendant two compact discs ("CDs") title GJ-04-0058 containing recorded conversations related to two specific telephone numbers.

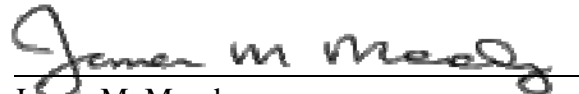
There was no index, transcript, or identification of the callers provided with the CDs. The government subsequently, upon request, provided a list of approximately forty-one recordings in which defendant was a participant. The government did not tell defendant where these forty-one recordings were located on the CDs.

Defendant contends that the government has failed in its duty to provide discovery under Federal Rule of Criminal Procedure 16 because it has failed to provide an index of the CDs resulting in an undue hardship on defendant as he has to listen to all conversations to locate the

conversations involving him. The government responds that it does not have a duty to list and transcribe every detail of recorded conversations.

Based upon the factors set out in *United States v. Pherigo*, 327 F.3d 690, 694 (8th Cir. 2003) regarding sanctions, defendants motion is denied (#145). However, the government is directed to provide defendant with location on the two CDs of the conversations which involve defendant.

IT IS SO ORDERED THIS 22 day of August, 2007.


James M. Moody
United States District Judge